

## **REMARKS**

By this amendment, claims 1, 4, 5, 6, 7, 8, 11 and 12 have been amended. Claim 13 is cancelled. Claims 1-12 remain in the application.

Claim 1 has been amended by incorporating the features of former claim 6, namely that the distribution server is arranged either to provide automated selection of a channel that is available to broadcast immediately or with a delay in correspondence with a user command, or is arranged to provide a partly automated selection of a channel assisted by a user command by automated selection of several channels available to broadcast immediately or with a delay in correspondence with a user command followed by the user selecting one among the several selected available channels.

Claims 4, 5, 6, 7 have been amended to remove multiple dependencies.

Moreover, claim 6 is limited to the distribution server being arranged to provide automated selection of a channel available to broadcast immediately or with a delay in correspondence with a user command.

Claim 8 has been amended in correspondence with claim 1 by incorporating the features of former claim 13.

Claims 11 and 12 have been amended to remove multiple dependencies.

As mentioned above, Claim 13 is cancelled.

The substantive amendments to the independent claims 1 and 8 have been made to emphasize the differences in Applicant's invention over the cited art. These amendments essentially align the Applicant's claims with arguments presented with the previous response, which arguments are expanded below.

### **Claim objections**

Claims 4, 5, 6, 7, 11 and 12 are objected to under 35 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. This objection has been removed by removing the multiple dependencies of the claims, so the claims are now in proper form for further examination.

### **Claim rejections – 35 USC § 103.**

Former claims 1-3 and 8-10 stand rejected under 35 USC § 103 as being unpatentable over US Patent No. 6,510,556 ("Kusaba") in view of US Patent No. 6,564,380 ("Murphy").

The Applicant respectfully traverses this objection in respect of the amended claims for the following reasons.

The Applicant concedes that Kusaba describes a similar system to that in Applicant's amended claim 1, apart from the following features/distinctions:

- the features set out in the final wherein clause of amended claim 1;
- Kusaba's system as such is not arranged to select at least one channel. In Kusaba channel selection is manual; and
- Kusaba's system is described only for distribution/broadcast of selected videos at future times,

all as further discussed below.

As argued in the previous responses, in Kusaba, the user inputs a request that is made up of : the Title to be ordered; a channel to be used for the distribution; and a time to start the distribution. See for example the description col. 4, lines 57-63; col. 5, lines 24-27; and all claims, in particular, claim 1, col. 9, lines 27-30; claim 6, col. 10, lines 11-13; claim 9, col. 10, lines 49-53.

Kusaba's system is described only for pre-recorded video and only for distribution/broadcast at future times. The possibility that Kusaba's system could be adapted for immediate display has not been described by Kusaba, and is conjecture. Thus the skilled reader, to reach such conclusion, has to go beyond Kusaba's disclosure.

Kusaba's system does not make an automated selection of a channel that is available to broadcast a selected video content immediately or with a delay in correspondence with a user command, and provide an indication of the selected channels available to broadcast the selected video content. Kusaba's indication consisted of selection of the Title and a broadcast time.

Kusaba's system works by the user manually selecting an available channel from several displayed channels including channels that are not available. Kusaba's system involves a "reservation situation" as illustrated in Kusaba's Fig. 4C and Fig. 4D. This reservation situation is cumbersome for the user.

In Kusaba, it is always the viewer who selects the channel at 422 on Figure 4C or 4F until he/she

reaches a channel that is available to broadcast from the given starting time and for the given duration of the video. To achieve this, Kusaba's viewer must always actuate the "designate channel" control 422.

This has to be contrasted to the present invention where the system automatically selects at least one channel available to broadcast the selected video content immediately or with a delay, whereupon the system provides an indication of the selected channel(s), and the system initiates the broadcast of a selected video content on the channel indicated by the system for immediate or delayed broadcast in correspondence with the user command (selected video content and time).

As argued in the previous replies, Kusaba's system is not described for the possibility of live broadcast (i.e. immediate broadcast as stated in Applicant's in claim 1) nor does its scheduler function in the same manner as Applicant's authorization server to select an available channel and to provide an indication of an available channel on which the video content is broadcast according to the user's request.

On the other hand, the secondary reference Murphy discloses an Internet-based video feed management system. Murphy's system includes access to video, including video-on-demand files, that are mainly downloaded by a customer and delivered through the customer's website and delivery network.

Murphy is concerned mainly with a system for sending live video on the Internet (Col. 1, lines 9-10).

Murphy is also concerned with a video-on-demand system, but this is limited to Internet distribution: see for example Figure 6: "Video on Demand: Access to a single video on demand file to be downloaded by customer and delivered through customer website and delivery network".

However, in Figure 10 and col. 17, lines 9-40, Murphy also allows for transmitting video content to a head-end of a cable broadband or digital TV system, for broadcast.

Nevertheless, Murphy remains silent on how the video content and transmission channel is selected. Further he has mentioned an analogy C-SPAN channel (col. 17, line 24) where content could be broadcasted as well as streamed over the internet. On considering the C-SPAN channel system, it is clear that the broadcast end user does not select the video content and for an internet user the data would be streamed for the program he requested. So for this broadcast the user does not provide the indication for video content. Here the local broadcaster provides the indication and would act like local publishing agent as mentioned in Murphy Col 11, line 30. In the instant application, the system provides the mechanism for choosing the content (video feed ) by

the end user (Fig 3, Fig 4, Fig 5, Fig 6). This is one major striking difference between US patent 6564380 and the instant application. Generally, the instant invention provides the end user with freedom to choose the end video content and flexibility in this choice which is not supported by Murphy.

In concluding its argument, the Office Action asserts (on page 12) that it “therefore would have been obvious to an artisan at the time of the invention, to modify the Kusaba’s system (server 101) with Murphy’s invention (Master server) to allow for proper authorization of the viewers and controlled access content.

However, the Applicant reiterates that skilled person is not guided by Kusaba’s disclosure, which is limited to stored video data, to perceive the usefulness of Murphy’s live video collection in Kusaba’s disclosure. Moreover, Murphy’s disclosure pertains to video-on-demand only for Internet distribution; Murphy has not recognized the potential for video-on-demand for live videos by TV transmission. Therefore the skilled person has no guidance or incentive to combine the two disclosures and has no reason for combining the disclosures. If however, as stated in the Office Action, the systems were nevertheless combined to expand the user’s choice of content, this would arguably lead to an expanded choice of content but it would not lead to applicant’s invention as claimed.

This is because Murphy does not cure the defective disclosure of Kusaba as regards the manner of operation of its scheduler and in particular the selection of channels.

It follows that no combination of the two teachings will arrive at the subject matter of instant claims 1 and 8, because Kusaba teaches that the user must select the channel for broadcast and Murphy contains no teaching to the contrary that will lead the skilled person to the instant invention where the user transmits an order for a video content to be displayed immediately or with a delay and the system provides for automated selection of the channel that is available to the user and where the broadcast takes place immediately or with a delay. Murphy does not teach selection of a channel.

Consequently, even if the skilled person were to contemplate combining Murphy’s video collection into Kusaba’s video distribution apparatus, the combination would result in obtaining an apparatus for distributing Murphy’s video collection by Kusaba’s system, namely a system in which the user must select the channel for broadcast, not a system according to the invention wherein the user transmits an order for a video content to be displayed and the system provides automated selection of the channel that is available to the user and where the broadcast takes place.

According to Applicant’s amended claim 1, the distribution server is arranged to provide automated selection of a channel that is available to broadcast, or a partly automated selection

assisted by a user command by automated selection of several channels available to broadcast immediately or with a delay in correspondence with a user command followed by the user selecting one among the several selected available channels. This feature is not known from Kusaba where channel selection is never automated, but is always purely manual by user actuation, nor is this feature known from Murphy.

In more detail, in Kusaba, the user always has to hit the “designate channel” command 422 to select the channel.

Automated and partly automated channel selection in the Applicant's invention is discussed on page 14, lines 1-13. Selection of the channel can be done automatically by the distribution server 350, based on software controlling the allocation of channels as a function of existing orders and predicted future availability of the channels which fluctuates according to demand. However, the user can participate in channel selection, for example the main authorization server 300 provides the user with an indication of several available channels, and the distribution begins when the user selects one of these channels. Thus, in the latter case, it is the system which automatically selects and provides the indication of several available channel (i.e. channels that are free at the designated starting time and remain free for the duration of the selected video content). In contrast, Kusaba provides a “Reservation situation” (Figure 4C), leaving it to the user to calculate if a particular channel is or is not available to broadcast the selected video content. Murphy is silent on this aspect.

Thus, Kusaba never provides an automated channel selection or a partly automated channel selection that is assisted by a user command, as required by Applicant's claim 6, and this feature cannot be derived from Murphy.

The Applicant therefore submits that the claimed invention (amended system claim 1) could not be derived in an obvious way by the skilled person over the teachings of Kusaba and Murphy, and requests the Examiner to review this ground of objection in the light of the above arguments and to withdraw this ground of objection.

The above arguments on non-obviousness apply also to claim 2 where the main video server supplies live broadcasts, and stores and supplies recorded videos and video-on-demand.

As regards claim 3, the Applicant has already acknowledged that digital broadcasting apparatus having a broad bandwidth with several hundreds of channels is known; however, this feature is combined with the inventive features of claim 1 and therefore should be allowable with claim 1. Likewise for claims 4 and 5.

According to Applicant's amended claim 1, the distribution server is arranged to provide automated selection of a channel that is available to broadcast. This is nowhere described in Kusaba or Murphy.

As regards claim 7, the Applicants processing system (320) and authorization server (300) cooperate to operate the main video server (200) in the novel and inventive manner set out in claim 1, so claim 7 should be patentable for the same reasons as claim 1.

The Applicant submits that method claim 8 is novel and inventive for the same reasons as set out for the main system claim 1 and the dependent method claims 9-12 are likewise patentable for the same reasons as given above.

### **Summary**

In view of the above it is believed that the application and all claims are in condition for allowance and a notice to that effect is earnestly solicited

Respectfully submitted,

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